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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/604,360

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Yechezkal Evan Spero

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EXAMINER

TRUONG, BAO Q

ART UNIT

PAPER NUMBER

2875

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/604,360	<b>Applicant(s)</b> SPERO, YECHEZKAL EVAN	
	<b>Examiner</b> BAO Q. TRUONG	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 50-69 is/are pending in the application.
- 4a) Of the above claim(s) 57, 58 and 67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50-56, 59-66, 68, 69 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 57, 58 and 67 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the optimal illuminance level is uniform illumination over the surfaces at a certain height within the living space whether the surface is directly below the illuminating device or off in a distant corner of claim 57, and the optimal illuminance is increased task lighting illuminance in a certain area of the living space and general lighting illuminance level over the rest of the area of claim 58, and the calculation of Lambert's Law of claim 67 are not shown in the Species I of figure 1; or a proposed combined Species I, II and III by the applicant (see restriction requirement on 12/14/2004 and the respond to the restriction on 1/13/2005).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 57, 58 and 67 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Applicant's traverse of new claims 57, 58, and 59 in the reply filed on 1/15/2009 is acknowledged. The traversal is on the ground(s) that the applicant explains what limitations claims 57, 58 and 67 disclose. This is not found persuasive because the

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applicant has not pointed out where are claims 57, 58 and 67 shown in the Species I of figure 1, or a proposed combined Species I, II and III.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Objections***

2. Claim 62 is objected to because of the following informalities:

Claim 62, all elements in claim "Markush Group" type should be equivalent. For example, there are different categories of "a power supply" and "a controller" and "a storage media".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 50-56, 59-66 and 68-69 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 50-56, 59, 60, 64-66 and 68-69 are rejected under 35 U.S.C. 102(b) as being anticipated by Zhang et al. [US 6,227,679 B1].

Regarding claims 50-56, 60, 64, 65, 66 and 68-69, Zhang et al. discloses an illuminating device having a multiple light source [A, B, C, D, E, C1] having spectral distribution and light distribution patterns [see figures 1-2], a light source mounting structure [24] configured to mount and arrange the light sources to form light distribution patterns and with angles for producing overall light distribution pattern without recourse to at least one of non-integral reflector and refractors (figures 1-3, whole document).

Regarding claim 59, Zhang et al. discloses LEDs (abstract).

Regarding claim 62, Zhang et al. discloses a power connection apparatus [16, 12] (figures 2-3).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al. in view of Chen [US 6,820,998 B2].

Regarding claim 61, Zhang et al. discloses the illuminating device [see figures 1-3] but does not disclose the means for sensing the changes, and the means for changing the light emanating characteristics of the light sources.

Chen discloses the means [1, 3] for sensing the changes, and the means [8, 9, 10, 11] for changing the light emanating characteristics of the light sources (figures 1-4, whole document).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the illumination device of Zhang et al. with the means as taught by Chen to control the illumination device for purpose of providing an advantageous way of adjusting light intensities while saving electrical source.

8. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang et al. in view of Lys et al. [US 6,340,868].

Regarding claim 63, Zhang et al. discloses an illuminating device (figures 1-4); However, Zhang et al. does not clearly disclose the controller being selected from the closed loop controller by use of a programming method.

Lys et al. discloses the controller being selected from the closed loop controller by use of a programming method for a current control of a LED lighting assembly

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(abstract, figures 1-2, column 4 lines 57-65, column 5 lines 3-5, column 6, lines 53-57, column 9 lines 45-55, column 16 lines 56-63).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the illuminating device of Zhang et al. by the current controller as taught by Lys et al. to adjust light intensity and color for purpose of providing an advantageous way of more accuracy controlling current flow into LEDs.

### ***Response to Arguments***

4. Applicant's arguments filed 1/15/2009 have been fully considered but they are not persuasive.

Regarding to Claim Rejections - 35 USC § 112, the applicant recites if the pro-se applicant has an error in a claim the he requests under MPEP § 2173.02 and § 707.07 (j) that the examiner should draft one or more claims for the applicant in the correct manner. However, the examiner has not found any structure(s), shown in Fig. 1 or combination of Fig. 1 – Fig. 3, which seem to be patentable.

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., paragraph [00112], fig. 2A, [0064], [0035], [0101], [0103],... ) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BAO Q. TRUONG whose telephone number is (571)272-2383. The examiner can normally be reached on Monday-Friday (8:00 AM - 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea can be reached on (571) 272-2378. The fax phone



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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bao Q. Truong/  
Primary Examiner  
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